

The Honorable Board of Lander County Commissioners met in regular session in the Commission Chambers of the Lander County Courthouse in Battle Mountain, Nevada, on August 27, 2009 at 9:00 A.M.

**PRESENT: CHUCK CHAPIN, COMMISSIONER
BRYAN SPARKS, COMMISSIONER
STEVEN STIENMETZ, COMMISSIONER
CHRIS SCHMIDT, COMMISSIONER
RAY H. WILLIAMS, JR., COMMISSIONER
WILLIAM E. SCHAEFFER, DEPUTY DISTRICT ATTORNEY
GENE P. ETCHEVERRY, EXECUTIVE DIRECTOR
JOY SWEENEY, HUMAN RESOURCE DIRECTOR
ROGENE HILL, FINANCE DIRECTOR
DONNA J. BOHALL, DEPUTY CLERK**

Chairman Chuck Chapin called the meeting to order.

Let the record reflect the presence of a quorum of five Commissioners.

Steven Stienmetz led the Pledge of Allegiance.

APPROVAL OF AGENDA NOTICE

The Notice of Posting was reviewed and found to be in order. Commissioner Sparks moved to approve the Agenda Notice, as posted. Seconded by Commissioner Stienmetz, the motion was voted and carried unanimously. **Approved.**

APPROVAL & ACCEPTANCE OF MINUTES

Regular Session Of August 13, 2009

The minutes of the Regular Session of August 13, 2009 were deferred to a future Commission meeting. **Deferred.**

CORRESPONDENCE

The Board reviewed the following correspondence that is retained in the Clerk's Office:

Page 1

**Provide Safety, Quality Service & Responsible Fiscal Management
For Present & Future**

Meeting of August 27, 2009

DOUGLAS W. FURTADO, BLM, to INTERESTED PUBLIC, regarding Underwood Allotment Grazing Preference & Permit Issuance Environmental Assessment (EA).

JOE SAWYER, NDEP, to BRET DOWNEY, CORTEZ GOLD MINE, regarding 2nd Quarter 2009 Monitoring & Remediation System Report, Cortez Gold Mines Mill #1 Facility, Crescent Valley, NV.

REPORTS

There were no reports for the Board's review.

COMMISSIONER REPORTS

Commissioner Stienmetz updated the Board regarding a Convention & Tourism meeting he attended recently on behalf of Lander County.

Commissioner Stienmetz made the following comment for the record:

"I've been looking at the ordinance for the Building Official. I think we need to read that carefully as it takes all the power away from the Building Official. I don't think we want to do that; so I'd ask everybody to really read it before we have the next public meeting on it."

Commissioner Schmidt updated the Board regarding complaints he's received recently from various Battle Mountain residents concerning the town water's "greasy taste".

Commissioners Chapin and Williams, respectively, updated the Board regarding the outcome of Austin's recent fly-in event.

Commissioner Sparks noted for the record that he will be out of town and unable to attend the September 10th and October 22nd Commission meetings.

Commissioner Williams updated the Board regarding the outcome of a meeting he attended recently on top of Bob Scott Summit with NDOT representatives.

Commissioner Williams updated the Board regarding a newspaper article he read recently concerning a federal meeting about off-road vehicle riders and plans for off-road trails.

Commissioner Williams updated the Board regarding various telephone calls he received recently concerning the hazardous waste dump in Antelope Valley.

Commissioner Williams noted the following for the record:

"A citizen from Austin shared a letter he received from one of our departments which concerns me. When we have a department under our control, we should be privileged to any type of information or complaints going out because we're ultimately liable for the lawsuit that could stem from that type of correspondence. I'd like to work with Gene and Mr. Schaeffer to come up with some type of policy to see how this can be addressed. The individual who received this letter is probably going to file some type of legal action."

Commissioner Williams updated the Board regarding a Planning Commission meeting he attended recently in Kingston.

Commissioner Williams updated the Board regarding a Sewer & Water District meeting he attended recently on behalf of Lander County.

STAFF REPORTS

Executive Director Gene Etcheverry provided the following staff report to the Board:

"We're trying to handle issues as they come up; hopefully before taxpayers call and complain. Also, I went to the fly-in, which was excellent."

PAYMENT OF THE BILLS

Commissioner Stienmetz moved to approve payment of the bills, check numbers 30312 through 30408 in the amount of \$74,589.02. Seconded by Commissioner Schmidt, the motion was voted and carried with Commissioners Chapin, Stienmetz, Schmidt and Williams voting "AYE" and with Commissioner Sparks abstaining from the vote on check number 30397 payable to the Tire Factory in the amount of \$2,227.50. **Approved.**

Wells Fargo Remittance Center - County Credit Card

Commissioner Stienmetz moved to approve payment to Wells Fargo Remittance Center, in the amount of \$1,396.78, for various purchases made on the County's credit card. Seconded by Commissioner Schmidt, the motion was voted and carried unanimously. **Approved.**

CDW Government, Inc. - Computer Superloader - Sheriff's Office

Commissioner Stienmetz moved to approve payment to CDW Government, Inc., in the amount of \$622.59, for a computer superloader for the Sheriff's Office. Seconded by Commissioner Schmidt, the motion was voted and carried unanimously. **Approved.**

PAYROLL CHANGE REQUESTS

There were no payroll change requests submitted for approval.

PUBLIC COMMENT

Battle Mountain resident **Leesa Marine** appeared before the Board to make the following comment for the record:

"Last Thursday my husband and his friend, Greg Greenhalgh, was out golfing at the golf course. I pulled into the parking lot and behind me was two Sheriff's Office vehicles. Tammy Sample, management out there, accused my husband and his friend, Greg Greenhalgh, of bringing alcohol in their golf cart while they were golfing. She kicked my husband, Greg Greenhalgh, and I off the golf course and told us we were not allowed to come back. The Sheriff's Department made us leave. I wasn't even there at the time of the incident.

The next morning we got served no trespass orders from Tammy saying we were no longer allowed to go out to the golf course. We asked the Sheriff's Office how can that be when it's a public County golf course - how can somebody serve us trespass orders? They said it was legal - she could do it. We know for a fact that there has been other individuals out there and she has caught them with wine and alcohol on the golf course. She's asked them to take the alcohol and put it in their vehicle. Not once were they kicked off the golf course. The sign also states no outside food can be brought into the golf course. The Owl Club caters out there on several occasions for golf tournaments. Mama's Pizza delivers out there for individuals on several occasions.

We feel we have been discriminated against because of the fact that she is dealing with issues with her ex-husband; her ex-husband is my brother. The other individual, Greg Greenhalgh, did not get served trespass papers. He's still golfing. We know this is a public forum and you can't comment on anything, but we wanted to make you aware of the situation. We did buy a couple's yearly pass to golf. Not only that, we paid for a yearly golf storage for our golf cart in the cart barn. We paid our yearly trail fee. We had to pull our golf cart out of the golf barn and rent a storage unit. We want to make the Commissioners aware of the issues going on out there. Thank you."

Commissioner Williams made the following comment for the record:

"Could you share a copy of your trespass order with me? Maybe the rest of the Board would like to see it. I'd like to present them also to the District Attorney's Office for legality because I thought the only person who could order a trespass order would be the Judge. This is County property; a County facility."

Commissioner Chapin noted the following for the record:

"We're going to bring this all up under a different agenda as this is public comment. We're going to bring it up under culture & recreation."

Executive Director Gene Etcheverry stated that this issue would be discussed in greater detail today under culture & recreation during the last agenda item.

- 1) **Budget Review & Update:** Let the record reflect the presence of Austin via telephone conference. Finance Director Rogene Hill presented the following update to the Board:

"Account receivables for the month of July are as follows: water/sewer-\$9,514.00; ambulance-\$79,844.00; landfill-\$10,757.00; water/sewer miscellaneous-\$2,938.00, for a total of \$103,053.00. We're still working on our audit. I don't know if anything has been brought up on the Health Nurse contract we discussed last agenda; in the meantime I'm going to have Cindy send our regular payment because I know the state is in dire straights. That keeps us at least intact until we get something decided. We're still having issues with the stipends. We've got Angie in place and we need somebody to teach her how to do the stipends."

Let the record reflect that this matter was an update only. **No Action - Update Only.**

COMMISSIONERS

- 2) **Discussion & Possible Action Regarding Request For Building Space From Lander County For Faith Based Community Youth Center Being Developed In Battle Mountain:** Let the record reflect the presence of Austin, via telephone conference; Ruby Bryant, President/Jacob's Well; and Lois Erquiaga, Secretary/Jacob's Well for this discussion. Executive Director Gene Etcheverry updated the Board regarding this matter, as follows:

- τ Request for general support & possible building space from LC for a faith-based community youth center in BM is presented for consideration;
- τ The group, Jacob's Well, filed their Corporate Charter with the NV Secretary of State, adopted by-laws for the organization & elected a Board of Directors.

Ms. Erquiaga noted the following for the record:

"We formed a non-profit corporation called Jacob's Well; we have our employer identification number. We plan on finding a way to have a youth center in Battle Mountain that would be open seven days a week with adult coverage. We've checked on financing and looked at grants. We're just getting started so we haven't developed a solid plan. We definitely need your support. We want it to be open to all youth in the community. We think it's really important to provide something for our teens. There's a youth center in Austin; we were hoping for something similar."

Commissioner Williams stated that there are currently no suitable county buildings or facilities available in Battle Mountain. There was general discussion regarding the following facilities that might become available in the future: **a)** a Pershing County Water Conservation District building located in one of the County's yards; and, **b)** a building located behind the Administrative Office on North Second Street that will be deeded to

Lander County once the Humboldt Project transfer is complete. Commissioner Williams made the following comment for the record:

"What's kind of scary about your proposal is it has a religious connotation to it. You may scare a few people off. We don't mix the church and the state, right? It looks like you're leading more into religion than youth activities. Kids like to play pinball machines, computers and that kind of stuff. They might want to play poker in there."

Ms. Erquiaga responded to Commissioner Williams' comment, as follows:

"Our bylaws state they don't have to have a specific belief to join in any activity. It's open to everyone. Do we have that belief and are they going to hear that message? There's a good chance. We want to be able to have Bible studies there. We've invited every pastor of every church. It's not just for one denomination; it's open to everyone. We plan on having activities like concerts and bar-b-ques and all of those things. We want all the youth to be able to come."

Deputy District Attorney William Schaeffer made the following comment for the record:

"To me the 1st Amendment on the religious issue is extremely clear - *Congress shall make no law respecting establishment of religion nor prohibiting the free exercise thereof*. In my view, those words make it absolutely clear that you put blinders on in regards to religious organizations. If the religion weren't there, would you allow them to do it? If that's the case, then you let them do it. The US Supreme Courts have been tending that direction, but we're in the Ninth Circuit. You'd be taking a slight risk. I can't tell you there's no risk involved; but if I were in your shoes I'd take it."

The Board expressed general support for the development of a faith-based community youth center in Battle Mountain. Let the record reflect that this matter was discussion only. **No Action - Discussion Only.**

- 3) **Discuss & Approve/Disapprove Agreement Between Lander County & Dessie & Mary Skeath For Lease Of Premises For Use As Public Library Situated In Austin, Nevada, County Of Lander:** Let the record reflect the presence of Austin via telephone conference. Executive Director Gene Etcheverry provided the following update to the Board:

- τ An agreement between LC & Dessie/Mary Skeath for lease of premises for the Austin Public Library is presented for consideration;
- τ This item was deferred from the August 13, 2009 Commission meeting for further negotiations;
- τ Lease of premises was also considered by the Board during the regular meeting of May 14, 2009;
- τ Two agreements were drafted reflecting alternative contractual bases acceptable to Lessors, Dessie & Mary Skeath;
- τ Lessors are willing to renew the building lease at \$350.00 per month if the lease is in effect for a period of seven years or \$400.00 per month if the lease is in force for a period of five years;
- τ Lessors have also agreed to replace the carpet in the building upon signing of the agreement;

- τ Total value of the agreement is \$4,200.00 per year, for a total of \$29,400.00, if renewed for seven years, or \$4,800.00 per year, for a total of \$24,000.00, if renewed for five years.

The Board reviewed and discussed two Lease Agreements between Lander County and Dessie and Mary Skeath, one for a five-year term and the other for a seven-year term, as presented by Mr. Etcheverry. There was general consensus in favor of approving the seven-year contract. Commissioner Williams so moved to enter into the contract/agreement between Lander County and Dessie and Mary Skeath for lease of the premises described as 88 Main Street, Austin, Nevada, of Lander County for use as a public library, for a seven year period commencing September 1, 2009 and terminating August 31, 2016. Seconded by Commissioner Schmidt, the motion was voted and carried unanimously. **Approved.**

- 4) **Discussion & Possible Action Regarding Request By Austin Roping Club To Set Speed Limit At 15 MPH At Main Turn By Cemetery Into Rodeo Grounds At Bottom Of Cattle Guard:** Let the record reflect the presence of Austin via telephone conference. Executive Director Gene Etcheverry updated the Board regarding this matter, as follows:

- τ A request by the Austin Roping Club to set the speed limit at 15 mph at the main turn by the cemetery into the rodeo grounds & at the bottom of the cattle guard is presented for consideration;
- τ R&B personnel recommend the 15 mph speed limit be set & posted from cattle guard to cattle guard;
- τ LCC 10.080.040 provides for speed regulations to be set by resolution & that the adopted resolution be published in the newspaper once per week for two consecutive weeks.

The Board reviewed and discussed draft Resolution No. 2009-12, presented by Mr. Etcheverry, as follows:

RESOLUTION NO. 2009-12
Of The Lander County Board of Commissioners

A RESOLUTION ESTABLISHING A MAXIMUM SPEED LIMIT OF FIFTEEN MILES PER HOUR ON VARIOUS COUNTY ROADS WITHIN LANDER COUNTY

WHEREAS, the Board of County Commissioners have been apprized of the lack of a speed limit in the Austin Rodeo Grounds of the County; and

WHEREAS, the Board of County Commissioners believe that a reasonable speed limit is necessary for the public safety and welfare on a certain road within the Austin Rodeo Grounds of the County; and

WHEREAS, Lander County Ordinance provides that the Commission may adopt speed limits on roads located within the County by resolution.

NOW, THEREFORE BE IT RESOLVED, that the Board of County Commissioners are establishing a maximum speed limit of fifteen miles per hour, from cattle guard to cattle guard, on the below listed county road within Lander County:

1. Rodeo Grounds Road - Austin.

Commissioner Williams moved to pass and adopt Resolution No. 2009-12, a resolution to set and post the speed limit at 15 miles per hour on Rodeo Grounds Road (County Road 217) within the distance from cattle guard to cattle guard encompassing the Austin Roping Grounds; and authorize the Commissioners to sign Resolution 2009-12. Seconded by Commissioner Sparks, the motion was voted and carried unanimously. **Resolution Approved.**

- 5) **Discussion & Possible Action Regarding Request By Sage Homes Inc./Reese River Ranches To Place Sign At Hwy 50/SR 305 Junction:** Let the record reflect the presence of Austin via telephone conference. Executive Director Gene Etcheverry provided the following update to the Board:

- τ A request by Sage Homes Inc./Reese River Ranches to place a sign at the Hwy 50/SR 305 junction is presented for consideration;
- τ Pictures included as back-up clearly define the proposed placement of the sign advertising Reese River Ranches;
- τ The pictures depict existing commercial signage present in this area;
- τ The requested placement is on County owned land outside NDOT right-of-way.

Commissioner Williams distributed a map to the Board and made the following comment for the record:

"It's not County property. The area depicted on this map, from that culvert as you go east, is private property. That's a claim called the Sagebrush Claim; it belongs to the Maestretti Family. The signs already permitted are there with permission of the property owner."

There was general consensus in favor of deferring this matter to a future Commission meeting to allow for further research of this issue. **Deferred.**

- 6) **Discussion & Possible Action Regarding Results Of Surplus Sale With Direction On What To Do With Excess Items & Titles On Vehicles:** Let the record reflect the presence of Austin, via telephone conference; Treasurer Grace Powrie; and Building Official Joe Lindsey for this discussion. The Board reviewed and discussed an August 10, 2009 letter from Ms. Powrie regarding the outcome of the surplus sale held August 8, 2009, as submitted. Ms. Powrie made the following comment for the record:

"There's no policy that's ever been on paper. We used to publicize and have it sitting around with numbers. People would go through and do a sealed bid. It works, but it's very time-consuming. Joe and I would like to do an auction for the larger items; but it's tedious for the smaller items."

Commissioner Williams made the following suggestion for the record:

"I'd like to see you post one public notice for sealed bids. If you get successful bids, we could sell them for whatever that is. If not, then get them to the junkyard; the rest goes to the dump."

Ms. Powrie responded to Commissioner Williams' suggestion, as follows:

"I think the sealed bid process is more time consuming than necessary. What's happened is once the auction was advertised and done, we really didn't feel we had the right to continue that auction after the fact because it wasn't advertised. On the other hand, we've had 4-5 people come in and give us a minimum bid offer on the highlighted items that are before you. I think it might be a good idea to do a county yard sale. We even thought about giving it to a thrift store. You can't do that. It's public money; you can't give it to the benefit of one taxpayer."

Commissioner Sparks presented testimony in favor of implementing some type of formal policy for disposal of County surplus property. Deputy District Attorney William Schaeffer made the following comment for the record:

"I can work with you. An auction is almost mandatory unless you give it to some charitable organization. Two thoughts occur to me: 1) find a charitable organization we can give it to; 2) when you hold the auction have an ending item which says all items not sold will, in the aggregate, be put on for auction at the end. Then, somebody could bid on everything and take it away."

There was general consensus in favor of implementing a sealed bid process for disposal of County surplus items. Mr. Lindsey informed the Board that Rod Davis, Cooperative Extension Office, would like the County to transfer the 2000 Ford Explorer to his department for use in the Bootstraps Program. Executive Director Gene Etcheverry noted that this could be accomplished through an intergovernmental transfer. The Board directed staff to advertise for sealed bids on all remaining surplus items except the 2000 Ford Explorer. Let the record reflect that this matter was discussion and direction only. **No Action - Discussion/Direction Only.**

EXECUTIVE DIRECTOR

7) **Discuss & Approve/Disapprove Contract Between Lander County & Q&D Construction, Inc. For Reconstruction Of Taxiway "A" At Battle Mountain Airport:**

Let the record reflect the presence of Austin, via telephone conference, and Greg Riley, RS&H, for this discussion. Executive Director Gene Etcheverry updated the Board regarding this matter, as follows:

- τ The Contract between LC and Q&D Construction, Inc. for reconstruction of Taxiway "A" at the BM Airport is presented for consideration;
- τ The bid for this project was awarded to Q&D Construction, Inc. on May 14, 2009.

The Board reviewed and discussed the Contract between Lander County and Q&D Construction, Inc. for reconstruction of Taxiway "A" at the Battle Mountain Airport, in the estimated maximum amount of \$1,759,328.50, as presented by Mr. Etcheverry. Commissioner Sparks moved to approve the Contract between Lander County and Q&D Construction, Inc. for reconstruction of Taxiway "A" at the Battle Mountain Airport, AIP No. 3-32-0001-20, for the estimated maximum amount of \$1,759,328.50. Seconded by Commissioner Stienmetz, the motion was voted and carried unanimously. **Approved.**

- 8) **Discuss & Approve/Disapprove Award Of Bid For Battle Mountain Airport, Runway 12/30 Repair:** Let the record reflect the presence of Austin, via telephone conference, and Greg Riley, RS&H, for this discussion. Executive Director Gene Etcheverry provided the following update to the Board:

- τ Bid proposals for the BM Airport Runway 12/30 Repair project are presented for consideration;
- τ Two bid proposals were received & opened August 18, 2009;
- τ A Letter of Recommendation of Award from RS&H is included as back-up to this agenda item;
- τ The engineer's estimated cost on this project was \$279,213.38.

The Board reviewed and discussed two bids received for the BM Airport Runway 12/30 Repair project, presented by Mr. Etcheverry, as follows:

No.	Received	Bidder	Amount	Bid Bond
1	8/18/2009	Sierra Nevada Construction	\$228,007.00	Yes
2	8/18/2009	Gordon Paving Co., Inc.	\$238,235.50	Yes

Mr. Etcheverry recommended award of bid to Sierra Nevada Construction, Inc., in the amount of \$228,007.00; and noted that Sierra Nevada Construction, Inc. is committed to meeting the Disadvantaged Business Enterprise goal of 10.6%. Commissioner Sparks moved to award the contract for Runway 12/30 Repair Project at the Battle Mountain Airport, Airport Improvement Project AIP No. 3-32-0001-19, to Sierra Nevada Construction, Inc., (SNC) of Sparks, Nevada, the apparent low bidder, with a bid amount of \$228,007.00. Seconded by Commissioner Schmidt, the motion was voted and carried unanimously. **Award Of Bid Approved.**

- 9) **Discuss & Approve/Disapprove Professional Services Agreement Between Lander County & Reynolds, Smith & Hills, Inc. (RS&H) For Work Order 2009-07 To Provide Construction Administration Services & Resident Project Representative Services For Reconstruction Of Taxiway "A":** Let the record reflect the presence of Austin, via telephone conference, and Greg Riley, RS&H, for this discussion. Executive Director Gene Etcheverry updated the Board regarding this matter, as follows:

- τ Professional Services Agreement Work Order 2009-07 is presented for consideration;
- τ The agreement is for RS&H NV to provide construction administration, resident project representative services & project close-out services for the BM Airport Taxiway "A" Reconstruction project;
- τ Lump sum consideration for provision of these services is \$140,000.00.

The Board reviewed and discussed Professional Services Agreement Work Order 2009-07, in the amount of \$140,000.00, as presented by Mr. Etcheverry. Commissioner Stienmetz moved to approve the Professional Services Agreement between Lander County and Reynolds, Smith & Hills, Inc. (RS&H) for Work Order 2009-07 to provide construction administration services and resident project representative services for the reconstruction of Taxiway "A" project at the Battle Mountain Airport, AIP No. 3-32-0001-20 for lump sum consideration in the amount of \$140,000.00. Seconded by Commissioner Sparks, the motion was voted and carried unanimously. **Approved.**

- 10) **Discuss & Approve/Disapprove Professional Services Agreement Between Lander County & Reynolds, Smith & Hills, Inc (RS&H) For Work Order 2009-06 To Provide Construction Administration Services & Resident Project Representative Services For Runway 12/30 Pavement Repair:** Let the record reflect the presence of Austin, via telephone conference, and Greg Riley, RS&H, for this discussion. Executive Director Gene Etcheverry provided the following update to the Board:

- τ Professional Services Agreement Work Order 2009-06 is presented for consideration;
- τ The agreement is for RS&H NV to provide construction administration, resident project representative services & project close-out services for the BM Airport Runway 12/30 Pavement Repair project;
- τ Lump sum consideration for provision of these services is \$35,000.00.

The Board reviewed and discussed Professional Services Agreement Work Order 2009-06, in the amount of \$35,000.00, as presented by Mr. Etcheverry. Commissioner Stienmetz moved to approve the Professional Services Agreement between Lander County & Reynolds, Smith & Hills, Inc. (RS&H) for Work Order 2009-06 to provide construction administration services and resident project representative services for the Runway 12/30 Pavement Repair project at the Battle Mountain Airport, AIP No. 3-32-0001-19 for lump sum consideration in the amount of \$35,000.00. Seconded by Commissioner Sparks, the motion was voted and carried unanimously. **Approved.**

- 11) **Discuss & Approve/Disapprove Resolution To Protest US Forest Service, Humboldt-Toiyabe National Forest Travel Plan:** Let the record reflect the presence of Austin via telephone conference. Executive Director Gene Etcheverry updated the Board regarding this matter, as follows:

- τ A resolution to protest/appeal the USFS Humboldt-Toiyabe National Forest Travel Plan decision is presented for consideration;

- τ The US Forest Service issued a Notice of Decision & Finding of No Significant Impact on the Humboldt-Toiyabe National Forest Travel Plan July 13, 2009;
- τ Pursuant to provisions of 36 CFR Part 215, appeals to the notice must be filed with the Appeal Deciding Officer within 45 days of the publication of the notice in the BM Bugle;
- τ The notice was published in the BM Bugle July 15, 2009;
- τ The Commission filed a letter of protest to the Travel Management Plan on April 9, 2009 & adopted Resolution No. 2009-08, a joint resolution protesting the US Forest Service Travel Management Plan Scoping Process during the May 14, 2009 Commission meeting.

The Board reviewed and discussed draft Resolution No. 2009-13, presented by Mr. Etcheverry, as follows:

RESOLUTION NO. 2009-13

A RESOLUTION BY THE LANDER COUNTY BOARD OF COMMISSIONERS APPEALING THE UNITED STATES FOREST SERVICE DECISION AND FINDING OF NO SIGNIFICANT IMPACT FOR THE HUMBOLDT-TOIYABE NATIONAL FOREST COMBINED TRAVEL MANAGEMENT PROJECT

WHEREAS, the US Forest Service has issued the Notice of Decision & Finding of No Significant Impact for the Combined Travel Management Project for the Austin/Tonopah Ranger District of the Humboldt-Toiyabe National Forest; and

WHEREAS, Lander County has determined that the Combined Travel Management Project & Plan are incongruent with the Lander County Policy & Plan for Federally Administered Lands, a policy and management initiative to which the US Forest Service is a partner. Furthermore, Lander County has found many critical discrepancies with County and Forest Service maps, which were used in the scoping process and development of the Combined Travel Management Project and Plan; and

WHEREAS, the US Forest Service has proposed in the Travel Management Plan restrictive travel route designations and closure of roads/trails on public lands within Lander County and, in some instances, even eliminated access to privately held properties; and

WHEREAS, some of the roads, routes and trails identified for closure in the scoping document and accompanying maps are RS 2477 designated roadways; and

WHEREAS, the proposed US Forest Service restrictive travel route designations and closures of roads and trails within public lands of Lander County would be a detriment to hunters, recreationists, miners, ranchers, private property owners and general public. The US Forest Service Combined Travel Management Project for the Austin/Tonopah Ranger District of the Humboldt-Toiyabe National Forest will create permanent harm to tourism of Lander County and enjoyment of public lands by the general public.

NOW, THEREFORE, BE IT RESOLVED, that the Lander County Board of Commissioners does hereby appeal the Decision & Finding of No Significant Impact of the US Forest Service Combined Travel Management Project for the Austin/Tonopah Ranger District of the Humboldt-Toiyabe National Forest.

BE IT FURTHER RESOLVED, that the Lander County Board of Commissioners is expressly opposed to any closures within the public lands of said County without concurrence and approval of the Lander County Board of Commissioners.

BE IT FURTHER RESOLVED, that the Lander County Board of Commissioners requests the US Forest Service honor their commitment as a partner in managing the public lands within the borders of Lander County as set forth in the Lander County Policy & Plan for Federally Administered Lands.

Mr. Etcheverry noted the following for the record:

"I'm drafting a letter to go with the resolution. Our letter will dovetail with the Nye County Commission's letter of filing for formal appeal. Ours will be more centrally focused on two things: 1) the scoping process was inadequate because of the maps provided; 2) the scoping process was inadequate

because there weren't meetings conducted to where the public was informed of what was going on. I need to read one statement into the record because it's central to our appeal. One of the responses to both mine and Commissioner Wickman's individual protest to this plan when it was in public comment was answered as follows: *We do not show the unauthorized routes that are not being proposed to be added to the system.* It took us a long time to decipher that. They follow up with: *We are not making a decision to close unauthorized routes through this analysis.* What that's saying is if they don't recognize a route, it's unauthorized and, therefore, wasn't ever in their maps."

Deputy District Attorney William Schaeffer made the following comment for the record:

"In regards to RS 2477 roads - either BLM or the Forest Service made assurances to Congress back in the '90s that they would not close roads without going through specific procedures. I can add a quick sentence to this letter, with your permission, citing to the actual hearing."

Commissioner Schmidt moved to pass and adopt Resolution No. 2009-13, a resolution joining Eureka and Nye counties in the protest and appeal of the US Forest Service decision issued on the Humboldt-Toiyabe National Forest Travel Plan; and direct staff to immediately transmit the resolution to the Appeal Deciding Officer via facsimile transfer, electronic file transfer and US mail. Seconded by Commissioner Sparks, the motion was voted and carried unanimously. **Approved.**

- 12) **Discussion & Possible Action Regarding Request By Resident In Austin, Nevada To Reduce An Ambulance Bill:** Let the record reflect the presence of Austin via telephone conference. Executive Director Gene Etcheverry provided the following update to the Board:

- τ An Austin resident's request for a reduction in an ambulance billing is presented for consideration;
- τ The patient was the victim of a 'slip & fall' accident in the Town of Austin;
- τ The patient was billed the basic ambulance service rate of \$300.00 & transportation (mileage) rate of \$10.00 per mile for a trip of 126 miles (\$1,260.00), for a total billing of \$1,560.00;
- τ The patient was double charged for transportation & should have been billed \$630.00;
- τ The patient has no insurance & is currently working a temporary job.

Mr. Etcheverry noted the following for the record:

"They're willing to pay the bill if we work with them and figure out a repayment plan. I'm proposing we reduce it to the basic ambulance service rate of \$300.00; reduce the transportation charge to \$126.00, basically \$2.00 per mile, for a total of \$426.00; and institute a repayment plan over a twenty-four month period."

Commissioner Williams moved to adjust the ambulance bill to be reduced to the basic ambulance service of \$300.00 plus transportation of \$126.00 for a total of \$426.00 to be repaid over a 24-month period. Seconded by Commissioner Stienmetz, the motion was voted and carried unanimously. **Reduction Approved.**

TREASURER

- 13) **Review, Update & Possible Action Regarding Changes To Standard Practice 2007-01, Billing & Collection:** Let the record reflect the presence of Austin, via telephone conference; Treasurer Grace Powrie; and Karen Morgan, Assistant to Public Works, for this discussion. Ms. Powrie updated the Board regarding this matter, as follows:

- τ A proposal to amend provisions of LC Standard Practice 2007-01, Billing & Collection, is presented for consideration;
- τ The proposed amendments will enhance overall effectiveness of billing & collection procedures for delinquent water/sewer accounts & eliminate amounts billed to customers & not collected.

The Board reviewed and discussed the proposed modifications to the current billing and collection policy, as presented by Ms. Powrie. There was general discussion regarding the pros and cons of collecting charges for delinquent water/sewer accounts on the County's tax roll. Commissioner Williams made the following comment for the record:

"Water is a Battle Mountain Town function; taxes is a Lander County function. How can we put a Battle Mountain Town bill on the Lander County tax roll? There's something legal here that doesn't look right to me. I can see liening the property - that's what sewer and water in Austin does."

Ms. Powrie responded to Commissioner Williams' comment, as follows:

"There's a statute, 244.36605, that states it can be attached to either the real property taxes or mobile/manufactured home of the legal owner that's having service at that property."

Executive Director Gene Etcheverry presented testimony regarding the benefits of the modified billing/collection policy. Commissioner Stienmetz moved to approve the amendments to Lander County Standard Practice 2007-01, Billing & Collection; and request review of the amended policy by the District Attorney's Office. Seconded by Commissioner Schmidt, the motion was voted and carried unanimously. **Approved.**

BUILDING

- 14) **Discussion & Possible Action Regarding Proposed Floodplain Management Ordinance; & Other Matters Properly Relating Thereto:** Let the record reflect the presence of Austin, via telephone conference; Building Official Joe Lindsey; and Ben Veach, Summit Engineering, for this discussion. The Board reviewed and discussed a draft Floodplain Management Ordinance, as presented by Mr. Veach. Mr. Veach noted

Page 14

**Provide Safety, Quality Service & Responsible Fiscal Management
For Present & Future**

Meeting of August 27, 2009

that the draft ordinance meets the criteria set forth by FEMA; and made the following comment for the record:

"In the appendix there's a section 2.0 that includes higher standards recommended by the State. In our opinion those aren't necessary and should be taken out. Basically, what you would have when you approve this ordinance would be a minimal ordinance acceptable to FEMA."

Commissioner Williams stated his opposition to the draft floodplain ordinance. Executive Director Gene Etcheverry made the following comment for the record:

"Has the State NFIP representative been contacted on removal of the higher standards? My request at this point would be to get it in writing because we're about to embark on a state-funded project that is in the heart of the flood plain here in Battle Mountain. If the state back-pedals on the requirements here, we could end up with the funding for that project being jeopardized."

Deputy District Attorney William Schaeffer made the following comment for the record:

"Unless there's some super big hurry, I'd suggest we get this totally in order and come up with a full-on proposal for the next meeting."

The Board directed staff to draft a floodplain ordinance for possible proposal at the next Commission meeting. Let the record reflect that this matter was discussion and direction only, with no action taken. **No Action - Discussion/Direction Only.**

DISTRICT ATTORNEY

- 15) **Discussion & Possible Action Regarding Property Located At 110 Victorine Drive, Kingston, Nevada, APN 003-202-25, For Failure To Respond To FEMA/NFIP Assessment Issues Letter Dated August 28, 2008:** Let the record reflect the presence of Austin via telephone conference. Executive Director Gene Etcheverry updated the Board regarding this matter, as follows:

"We've not made contact with the folks at FEMA and NFIP. Apparently we haven't been able to get a hold of Linda Potter so we're not prepared for this agenda item today. My plan is for the Floodplain Administrator, myself, and the District Attorney's Office to get together, get everything in align, and send a formal Notice to Appear to Linda Potter."

Let the record reflect that this matter was deferred to a future Commission meeting. **Deferred.**

COMMISSIONERS

- 16) **Discussion & Possible Action On The Following Projects/Services:** Let the record reflect the presence of Austin via telephone conference.

Airport Projects: Let the record reflect the presence of Greg Riley, RS&H, for this discussion. Executive Director Gene Etcheverry updated the Board regarding the status of the Austin Airport AWOS project. There was general discussion regarding ongoing problems with the automated weather observing system (AWOS) at the Austin Airport. Mr. Riley updated the Board regarding the status of the Austin Airport fuel system project. **No Action - Update Only.**

Ambulance Service: Executive Director Gene Etcheverry updated the Board regarding a Battle Mountain Ambulance Service meeting scheduled for August 31, 2009; and made the following comment for the record:

"The ambulance at Gallagher Ford is fixed as far as the chassis and drive-train problems. The supplier of the ambulance has been unable to get a wiring team together. We will bring Rescue One back here and put it at the Sheriff's Department until we can get a wiring team in here."

Mr. Etcheverry updated the Board regarding the status of the Austin Ambulance Service. **No Action - Update Only.**

Economic Development: Executive Director Gene Etcheverry updated the Board regarding this matter, as follows:

"The 4th Quarterly Report for LEDA was submitted by Christina Wohle this morning. We still have no official notification from the State as to who is overseeing the local development grant program. LEDA invites myself and one Commissioner to the next LEDA meeting."

No Action - Update Only.

Public Lands: Executive Director Gene Etcheverry updated the Board regarding various public lands issues of interest to Lander County. **No Action - Update Only.**

Water/Sewer Projects: Executive Director Gene Etcheverry provided the following update to the Board:

"We're in the midst of our paving project. We'll have some sewer/water implications on this project. I'm going to request at our next meeting that the Commission allow me to bring change orders back for ratification under this agenda item."

There was general discussion regarding the following water/sewer issues: **a)** the status of the arsenic mitigation water project; **b)** the pumps at the wastewater treatment facility

which are operating under capacity; and, **c)** the status of the ponds at the wastewater treatment facility. **No Action - Update Only.**

Street/Road Projects: Executive Director Gene Etcheverry updated the Board regarding the status of the following road projects: **a)** the phase I road improvement project; **b)** the Broyles Ranch, East Antelope and Eastgate stimulus road project; and, **c)** the Antelope Valley road maintenance project. There was general discussion regarding the need to repair/replace a guard rail and cattle guard on the road north of town. **No Action - Update Only.**

Culture & Recreation: Let the record reflect the presence of Battle Mountain residents Scott and Leesa Marine for this discussion. Commissioner Chapin noted for the record that there is a problem at the Mountain View Golf Course; and asked how the Board should proceed in this matter. Executive Director Gene Etcheverry provided the following background information to the Board:

"The day this happened, last Thursday, our contractor called and said, 'Do I have the right to kick people off the course?' I said, 'Sure, if they're not following rules, you have the right to remove them.' At approximately six o'clock that night I get a call from Sergeant Johnson - 'Does the golf course manager have control over the course and the club house?' Yes, they do. 'Can they remove people?' Yes, for not obeying the rules and for being a nuisance. I wasn't aware our manager had processed paperwork for Notice of Trespass against Greg Greenhalgh and Scott and Leesa Marine until the next morning. Yes, she was given permission to remove people for not obeying the rules. Eviction from the property is a totally different thing than removal.

The next day I became aware through Greg Greenhalgh that he would be served a Notice of Trespass. I went to the Sheriff's Department and said, 'Wait a second. This is county property. I don't know that any Commissioner or the Commission as a whole, and certainly I didn't agree to this.' It went however the course was. The Sheriff was on a fire in the south county and couldn't be gotten a hold of. The Undersheriff was on vacation. The person at the Sheriff's Department who delivers these types of notices delivered Scott and Leesa's notices. Greg went out and through some negotiations with the contractor convinced her to lift his Notice of Trespass. I can understand the circumstances. The Marines didn't feel comfortable dealing with our manager on this issue and so chose not to further inflame the situation. Now they're under this Notice of Trespass. She was never given permission to evict anybody from the property."

Commissioner Sparks made the following comment for the record:

"I'm right back to this Notice of Trespass. I don't see how that can be enforceable on a County property. Is there some legal point I'm not seeing? I think it's ridiculous. This is the problem I see with this - we're allowing her to use her judgement to do things that could potentially come back and have litigation for the County. I think there's a potential conflict here. I think there might possibly be some unfair treatment based on certain things. That's what I don't like about it. I can see if somebody's breaking the rules - you ask them to leave or fix the problem. I think it's a bit out of line for a contractor to put a Notice of Trespass on a county property. Under 'B' it states - having been warned by the owner. Tammy's not the owner. The County owns it - the taxpayer's own it. I think it's a bit severe - a bit far that we allow her to do that."

Deputy District Attorney William Schaeffer responded to Commissioner Sparks' comment, as follows:

"The problem is we have an independent contractor as a manager. We didn't put anything in the contract that would cover this type of situation. We can certainly take care of this problem in the next contract. Our office will look into it. I don't want to say for sure that this is illegal; but I also don't want to say for sure it's legal. I want to look into it. It bothers me, as well."

Mr. Etcheverry made the following comment for the record:

"Another item took place last week, as well, with this contractor that she will be getting a letter from my office. She failed to accept payment by someone in town who golfed some rounds without paying. Payment was delivered to her at the golf course and she refused the payment; so they brought the payment into County administration. That's in direct breach of her contract. However, breach of contract has 60 days curation. We're in no-man's land with this contract. This is the roller coaster ride from hell, gentlemen. It makes it very difficult. It truly does demise the worth of one of our assets because once these folks find somewhere else they like to golf and feel comfortable, they may not come back. It's one shenanigan after another - and I do mean to say that on the public record."

Commissioner Williams asked if a motion should be made concerning this issue. Mr. Schaeffer noted the following for the record:

"I'd rather you didn't because it's not a specific item. Information and a little bit of banter is fine, but when we do this style of thing it's close to the line. You're not over it, but you're close to the line. I don't have a problem with discussing it in open when you just do a serial thing like that, but when you're talking about taking major action - you need to specify that to be totally in compliance with the Open Meeting Law. This is here so we can have reports. When things suddenly come up we can at least discuss them and try to figure something out."

Commissioner Chapin asked if the contractor ever paid for the golf cart batteries. Finance Director Rogene Hill answered in the negative; and noted for the record that the County recouped the money for the batteries from the sale of the surplus golf carts. Commissioner Chapin stated that the contractor was in breach of contract for this issue also. Mr. Etcheverry explained that the contractor acquired the services of an attorney concerning the battery issue. Ms. Marine made the following comment for the record:

"I'm going to be put on the agenda for the next Commissioner's meeting to discuss our fees. If we're not allowed out there, why should we have to pay for the whole year we've already paid for? Not only for our golfing fees, but for our cart storage fee because it's no longer out there. That's the only other issue we had."

No Action - Update Only.

Contracts: The Board reviewed and discussed an August 27, 2009 memorandum from Finance Director Rogene Hill concerning the County's past due contracts, as submitted. **No Action - Update Only.**

ADJOURNMENT

There being no further business before the Board at this time, Commissioner Stienmetz moved to adjourn the meeting of August 27, 2009. Seconded by Commissioner Sparks, the motion was voted and carried unanimously. **Meeting Adjourned.**

**CHAIRMAN OF THE BOARD OF LANDER
COUNTY COMMISSIONERS AND THE
LANDER COUNTY LIQUOR BOARD**

ATTEST: _____
LANDER COUNTY CLERK

Note: The Board of Lander County Commissioners serves as the Town Board for the unincorporated towns of Battle Mountain and Austin, Nevada.

